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Message Text

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51
ACTION EA-10

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CINCPAC PASS AMBASSADOR KINTNER ATTENDING CHIEFS OF MISSION
CONFERENCE HONOLULU HI

E.O. 11652: N/A
TAGS:
SUBJECT: LABOR DISPUTE WITH PX EMPLOYEES ON THE MATTER OF SEVERANCE
PAY

1. SUMMARY. EMPLOYEES OF THE THAILAND REGIONAL EXCHANGE
(TRE) PX SYSTEM ARE DISPUTING MISSION POLICY ON SEVERANCE PAY.
THE CENTRAL ISSUES APPEAR TO BE THE MISSION'S POLICY ON A
NON-CONTRIBUTORY PROVIDENT FUND. PX EMPLOYEES HAVE QUESTIONED
THE PROPRIETY OF "FOLDING" A NON-CONTRIBUTORY PROVIDENT FUND
INTO A TOTAL SEVERANCE PAY PACKAGE. THEY POINT OUT THAT THE
MISSION AGREED TO A PROVIDENT FUND AS A SEPARATE AND DISTINCT
BENEFIT FROM A STATUTORY REQUIREMENT IN THE RTG LABOR LAW FOR
SEVERANCE PAY. MOREOVER, THEY CHARGE THAT SINCE JUNE OF THIS
YEAR THE MISSION HAS UNILATERALLY AND WITHOUT PROPER CONSULTATION
WITH PX EMPLOYEES DEPRIVED SOME OF THEM OF A BENEFIT ALREADY
GRANTED. THIS WAS DONE, THEY CLAIM, THROUGH THE PRACTICE OF
"FOLDING" OR COMBINING SEVERANCE PAY WITH PROVIDENT
FUND TO YIELD A PACKAGE PAYMENT OF AN EQUAL AMOUNT WITH THE
LITERAL PROVISIONS OF THE RTG LABOR LAW ON SEVERANCE PAY.
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IN ADDITION, AT ISSUE IS THE INTERPRETATION OF WHETHER THE

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RTG REQUIREMENT FOR 30, 90 OR 180 DAYS OF SEVERANCE PAY MEANS CALENDAR OR WORKING DAYS. PX EMPLOYEES CLAIM THE MORE LIBERAL INTERPRETATION OF WORKING DAYS AS OPPOSED TO PRESENT MISSION PRACTICE OF PAYING CALENDAR DAYS OF SEVERANCE PAY. THE RTG LABOR DEPARTMENT HAS SUPPORTED PX WORKERS' POSITION IN LETTERS TO PX EMPLOYEES, BUT IN A MEETING WITH THE EMBASSY ADMINISTRATIVE COUNSELOR ANOTHER LABOR DEPARTMENT OFFICIAL HAS ACKNOWLEDGED THE POSSIBILITY OF A DIFFERENCE IN INTERPRETATION REGARDING SEVERANCE PAY. ENCOURAGED BY APPARENT LABOR DEPARTMENT SUPPORT, WORKERS AT THE PX HAVE GIVEN PX MANAGEMENT UNTIL DECEMBER 4 TO REINSTATE SEPARATE PAYMENT OF THE PROVIDENT FUND AND SEVERANCE PAY. THE MISSION WAGE SURVEY IS NOW IN PROGRESS. IT WILL NOT BE READY BY THE DECEMBER 4 DEADLINE. HOWEVER, THE CHARGE' HAS ASKED MACTHAI TO MAKE EVERY EFFORT TO COMPLETE THE SURVEY IN COUNTRY AS SOON AS POSSIBLE, HOPEFULLY BY 6 OR 7 DECEMBER. IN ADDITION, THE EMBASSY IS CONTINUING ON AN URGENT BASIS TO MEET WITH THE OFFICE DIRECTOR OF THE RTG LABOR PROTECTION DIVISION IN AN EFFORT TO SECURE HIS INTERCESSION WITH PX EMPLOYEES TO POSTPONE THEIR UNREALISTIC DEADLINE. CHARGE PLANS TO MEET WITH DIRECTOR-GENERAL LABOR DEPARTMENT 3 OR 4 DECEMBER IN FURTHER EFFORT TO HEAD OFF STRIKE AT PX. END SUMMARY.

2. THE AMOUNT OF SEVERANCE PAY DUE LOCAL EMPLOYEES OF THE USG IN THAILAND HAS ARISEN AS A SIGNIFICANT ISSUE AMONG THE MISSION, LOCAL EMPLOYEES AND THE RTG LABOR DEPARTMENT. WHILE EMPLOYEES OF THE TRE BANGKOK HAVE LED THE ASSAULT ON THE MISSION'S PRESENT POSITION ON PAYMENT OF SEVERANCE PAY, THE ISSUE HAS BEEN RAISED SPORADICALLY AT UPCOUNTRY BASES THROUGHOUT THE COUNTRY. MISSION RECOGNIZES THAT ANY SETTLEMENT OF SEVERANCE PAY ISSUE WILL BE APPLICABLE TO ALL MISSION EMPLOYEES WITHOUT CIVIL SERVICE RETIREMENT.

3. ON 10 FEBRUARY 1974 MISSION INTRODUCED A NON-CONTRIBUTORY PROVIDENT FUND AT 5 PERCENT OF THE EMPLOYEES SALARY FROM THAT DATE FORWARD AND 2 1/2 PERCENT RETROACTIVELY BEFORE THAT DATE. EMPLOYEES OF THE MILITARY COMMAND WERE INFORMED IN WRITING THAT THE USG WAS INSTITUTING A NON-CONTRIBUTORY PROVIDENT FUND FOR THEIR BENEFIT. THE RTG LABOR LAW, AT THAT TIME, REQUIRED ONE MONTH'S SEVERANCE PAY. MISSION PROVIDENT FUND AND STATUTORY LIMITED OFFICIAL USE

SEVERANCE PAY WERE ADDED TOGETHER TO CREATE A MORE EQUITABLE SEPARATION PACKAGE.

4. ON 13 JUNE 1974, AFTER A BITTER TEXTILE LABOR DISPUTE, THE RTG ISSUED AN AMENDMENT OF THE LABOR LAW SUBSTANTIALLY LIBERALIZING THE SEVERANCE PAY PROVISIONS. REQUIREMENT FOR ONE MONTH'S SEVERANCE PAY WAS AMENDED TO 30, 90 OR 180 DAYS SEPARATION PAY DEPENDING ON LENGTH OF SERVICE. FORMER USG

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PRACTICE ON SEVERANCE PAY AND PROVIDENT FUND WHICH HAD BEEN LIBERAL WAS NOW SUB-STANDARD. AT THIS POINT MISSION PERSONNEL OFFICERS DECIDED TO INCLUDE THE NON-CONTRIBUTORY PROVIDENT FUND IN A LUMP SUM PAYMENT WITH SEVERANCE PAY TO CREATE A PACKAGE OF 30, 90 OR 180 DAYS AS REQUIRED BY LAW.

5. PX EMPLOYEES ARE DISPUTING THIS DECISION. THEY AND LABOR DEPARTMENT OFFICIALS POINT OUT THAT MISSION'S AGREEMENT IN FEBRUARY TO GRANT EMPLOYEES A PROVIDENT FUND FORMED A CONTRACTUAL OBLIGATION WHICH ONLY CAN BE CHANGED AFTER CONSULTATIONS WITH THE OTHER PARTY. STATUTORY RE-QUIREMENT FOR SEVERANCE PAY IS, IN THEIR OPINION, SEPARATE AND DISTINCT FROM CONTRACTUAL REQUIREMENT FOR A PROVIDENT FUND.

6. ANOTHER SEPARATE AND DISTINCT ISSUE IS THE INTERPRETATION OF DAYS IN THE RTG LABOR LAW REQUIREMENT FOR SEVERANCE PAY. THE RTG LABOR LAW SAYS THAT EMPLOYEES WILL RECEIVE SEVERANCE PAY OF 30, 90 OR 180 DAYS WAGES DEPENDING ON THEIR LENGTH OF SERVICE WITH THEIR EMPLOYER. THE LAW IS UNCLEAR ON THE QUESTION AS TO WHETHER "DAYS" MEANS WORKING DAYSOR CALENDAR DAYS. OPERATING ON THE BASIS OF AN ADVISORY OPINION OBTAINED FROM THE LABOR DEPARTMENT'S OWN LEGAL ADVISER, THE MISSION HAS HERETOFORE INTERPRETED DAYS TO MEAN CALENDAR DAYS AND PAID SEVERANCE PAY ACCORDINGLY. TRE EMPLOYEES HAVE DEMANDED THAT SEVERANCE PAY BE PAID FOR WORKING DAYS; A MORE LIBERAL PAYMENT TO THE EMPLOYEES WOULD OBVIOUSLY RESULT FROM THIS INTERPRETATION. DESPITE THE FORMER ADVISORY OPINION FROM THE LABOR DEPARTMENT'S OWN LAWYER GIVEN THE MISSION IN JUNE, OFFICIALS OF THE LABOR DEPARTMENT HAVE SENT LETTERS TO TRE EMPLOYEES AND OTHER EMPLOYEES OF THE USG THROUGHOUT THAILAND CONTAINING THE MORE LIBERAL INTERPRETATION OF THE LABOR LAW ON BOTH THE SEPARATION OF THE PROVIDENT FUND AND
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SEVERANCE PAY AND THE INTERPRETATION OF DAYS IN THE LABOR LAW. IN A MEETING 2 DECEMBER WITH EMBASSY OFFICERS, THE OFFICE DIRECTOR OF THE RTG LABOR PROTECTION DIVISION ACKNOWLEDGED THE POSSIBILITY OF A DIFFERENCE IN INTERPRETATION OF THE LAW. OFFICIALS OF THE LABOR DEPARTMENT HAVE REQUESTED ANOTHER MEETING WITH THE MACTHAI CIVILIAN PERSONNEL OFFICE TO DISCUSS MISSION POLICY ON SEVERANCE PAY. THIS MEETING IS SCHEDULED FOR 3 DECEMBER. TRE EMPLOYEES HAVE LEARNED OF THE MISSION'S MEETING WITH THE LABOR DEPARTMENT AND "SUSPENDED FURTHER ACTION" ON THEIR DEMANDS UNTIL DECEMBER 4.

7. IN SUMMARY, THE EMBASSY HAS TAKEN THE FOLLOWING ACTION ON THE DISPUTE OF SEVERANCE PAY: MEETINGS HAVE BEEN HELD WITH ALL CONCERNED MISSION ELEMENTS TO ARRIVE AT A UNIFIED POSITION ON THE ISSUE OF SEVERANCE PAY; THE CHARGE HAS REQUESTED THAT

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THE MISSION WAGE SURVEY, PRESENTLY IN PROGRESS, BE EXPEDITED TO YIELD RESULTS AS SOON AS POSSIBLE; THE COUNSELOR FOR ADMINISTRATION HAS MET WITH THE OFFICE DIRECTOR OF THE RTG LABOR PROTECTION DIVISION ON AN URGENT BASIS AND IS CONTINUING MEETINGS WITH THIS OFFICIAL. PURPOSE OF THESE MEETINGS IS TO ENLIST THE OFFICE DIRECTOR'S SUPPORT FOR THE EMBASSY POSITION THAT THE PRESENT UNREALISTIC DEADLINE OF DECEMBER 4 BE POST-PONED UNTIL RESULTS FROM THE MISSION WAGE SURVEY ALLOW THE MISSION TO MAKE AN OFFER ON THE QUESTION OF SEVERANCE PAY TO THE TRE EMPLOYEES.

8. DURING MEETINGS WITH THE COUNSELOR FOR ADMINISTRATION, THE RTG LABOR OFFICIAL EXPRESSED THE OPINION THAT PX WORKERS WERE WELL AWARE THAT THEIR LEVERAGE LIES IN A STRIKE DURING THE CHRISTMAS SHOPPING SEASON IN EARLY DECEMBER. THIS OFFICIAL EXPLAINED THAT EMPLOYEES WERE UNLIKELY TO CAST AWAY THE BAR-GAINING LEVERAGE OF A STRIKE UNLESS THE MISSION WAS ABLE TO SHOW SOME POSITIVE MOVEMENT ON THEIR KEY DEMAND OF SEPARATE PAYMENT OF PROVIDENT FUND AND SEVERANCE PAY.

9. IN A FURTHER EFFORT TO DIFFUSE THE DANGER OF A PX STRIKE, IT WAS AGREED DURING A MISSION COORDINATING MEETING HELD LATE 30 NOVEMBER TO ANNOUNCE THAT ALL MISSION ELEMENTS WOULD SUSPEND RIF'S UNTIL THE WAGE SURVEY IN COUNTRY IS COMPLETED AND FINAL U.S. AGENCY CLEARANCE FOR ITS FINDINGS IS OBTAINED. AS A COROLLARY, ANOTHER ANNOUNCEMENT IS TO BE MADE TO ALL MILITARY
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COMMAND LOCAL EMPLOYEES THAT THE MISSION INTENDS TO FOLLOW RTG LABOR LAW AND PRACTICE ON THE MATTER OF PROVIDENT FUND AND SEVERANCE PAY. IN A FURTHER EFFORT TO HEAD OFF A STRIKE AT THE PX, CHARGE WILL MEET WITH THE DIRECTOR-GENERAL OF THE RTG LABOR DEPARTMENT 3 OR 4 DECEMBER.
MASTERS

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